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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/502,230	07/19/2005	Peter David Jenkins	1011-0057	1496
7590 08/19/2009 Edward M Keating Cook Alex McFarron Manzo Cummings & Mehler 200 W Adams Street Suite 2850 Chicago, IL 60606				
EXAMINER				
HAUGLAND, SCOTT J				
ART UNIT		PAPER NUMBER		
3654				
MAIL DATE		DELIVERY MODE		
08/19/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/502,230

**Applicant(s)**

JENKINS ET AL.

**Examiner**

SCOTT HAUGLAND

**Art Unit**

3654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 May 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

The drawings were received on 5/11/09. These drawings are accepted.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4, 5/1, 6, 7, and 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Basford (U.S. Pat. No. 3,065,893).

Basford discloses a caterpillar traction apparatus comprising first and second extensive traction members (26, 32) driven by first through fourth rotatable members (28, 30, 34, 36). The rotatable members are addressed by drive means 52. The first and third rotatable members can be driven at a different speed than the second and fourth rotatable members due to the inherent elasticity of the traction members (26, 32). A speed difference would be inherent in the operation of the apparatus due to the load on the traction apparatus and rollers. The caterpillar traction apparatus processes a linear member 58.

The method of claims 11-13 is inherent in the operation of the apparatus of Basford.

With regard to claims 12 and 13, the linear member 58 is compressed or extended depending on the direction of travel of the caterpillar traction apparatus (col. 3, lines 4-30).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 3, 5/2, and 5/3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Basford (U.S. Pat. No. 3,065,893) in view of McGinnis (CA 1161385). Basford is described above.

Basford does not disclose that the speed difference is between 1% and 10%.

McGinnis teaches making a conveyor belt capable of being elongated by 5%.

It would have been obvious to provide Basford with a belt that is capable of being elongated by 5% as taught by McGinnis to prevent sagging of the mounted belt. The resulting apparatus would be capable of operating with the claimed speed difference.

Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Basford (U.S. Pat. No. 3,065,893) in view of McGinnis (CA 1161385) and FR 2425394.

Basford does not disclose that the traction members comprise rubber and are capable of 10% elongation.

McGinnis teaches forming a traction member of rubber to provide elasticity and teaches making a traction member capable of being elongated.

FR 2425394 teaches making a traction member of a polymer (elastomer) capable of being elongated 10%. The elastomer is, by definition, compressible.

It would have been obvious to provide Basford with a traction member that is capable of being elongated as taught by McGinnis to facilitate mounting and prevent sagging of the belt in operation. It would have been obvious to form the traction member of a compressible polymer that is capable of being elongated by 10% as taught by FR 2425394 to facilitate mounting of the belt in a tensioned state.

With regard to claim 9, it would have been obvious to make the belt of rubber as taught by McGinnis to provide elasticity.

### ***Response to Arguments***

Applicants' arguments filed 5/11/09 have been fully considered but they are not persuasive.

Applicants argue that because the belt traction member in Basford is keyed with each pair of drive and idler pulleys, it is impossible for the speed of the idler pulley to deviate from that of the corresponding drive pulley. However, this is not the case as is

known in the art. No net slippage between the pulleys and belt traction member is required to permit the drive and idler pulleys to rotate at different speeds and it would be expected that there would be some difference in the speeds of the pulleys because of the load imposed on the belt by extrusion 58 as it is driven by the belt. If the pulleys rotate at different speeds, one run of the belt is compressed and the other is elongated. The magnitudes of the compression and elongation are determined by the difference of the speeds of the pulleys. The compression and elongation do not change if there is a constant difference in pulley speed. Additionally, claim 1, for example, does not require a difference in pulley speed to be sustained for any particular period of time and does not even require that any difference actually occur. It only requires that the pulleys be capable of being driven at different speeds.

Applicants argue that Basford does not disclose four pulleys addressed by drive means. However, all four of the pulleys 28, 30, 34, 36 in Basford are addressed by drive means (motor 52) through shafts, gearing, or belts 26, 32.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SCOTT HAUGLAND whose telephone number is (571)272-6945. The examiner can normally be reached on Mon. - Fri., 10:00 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Q. Nguyen can be reached on (571) 272-6952. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John Q. Nguyen/  
Supervisory Patent Examiner, Art Unit 3654

/SJH/  
8/14/09